

REMARKS

RECAPITULATION OF THE CLAIMS:

For convenience of the Primary Examiner, set forth below is a recapitulation of the current status of the Claims in the present Application.

Claim	Status	Dependency
1	Amended	Independent
2	Unchanged	1
3	Unchanged	2
4	Amended	3
5	Amended	1
6	Unchanged	5
7	Amended	5
8	Unchanged	1
9	Unchanged	8
10	Unchanged	8
11	Unchanged	5
12	Unchanged	11
13	Amended	1
14	Amended	13
15	Amended	Independent
16	Amended	Independent

DISCUSSION:

Comments of Examiner TRUONG have been reviewed carefully along with pertinent sections of the Patent Act, Patent Rules, the Manual of Patent Examining Procedure as well as relevant decisional law. The Application has been amended to focus more accurately on Applicant's teaching, to correct grammatical mistakes and to harmonize the Specification. Favorable reconsideration of the Application is solicited earnestly.

It must be pointed out that Examiner TRUONG apparently misread United States Patent 5 363 838 to Dr. Gordon P. George. The Examiner's mistake is found in the last two lines of page 2 of the Office Action wherein he states the following:

" . . . camera means (6, 8) mounted on a distal end of the
blade (3) (see Col. 4, lines 56 and 57) . . . "

Said passage in George recites:

The camera, alternatively, can be an electronic camera placed
at the stylet's distal end 9.

Webster's Third Unabridged Dictionary defines "stylet" as follows:

1.a A slender surgical probe, etc.

It should be noted that a stylet or stilet is pointed as compared to a flat blade. Equate "stiletto" with "spada", "dagger" with "sword".

As seen in Figs. 1 and 4, stylet 9 is a slender distal end of an intubating tube. Please read the entire paragraph in Column 4 from lines 47-57. Accordingly mounting the camera at the stylet's distal end 9 is mounting it on the intubating tube, not on the laryngoscope blade as specified and claimed by Applicant in the present invention. So George fails to anticipate Applicant's claims.

Claim 1 sets forth the following language:

. . . camera means mounted on the blade in the vicinity of the
distal end for observing a visual field. . .

That language specifies location of the camera on the blade in the vicinity of its distal end which is held steady in the Professional Intubator's less-dominant (left) hand where it is held steadily with a controlled small target variation of perhaps from 10° to 20°. Conversely when the camera is carried in the Professional Intubator's more-dominant

(right) hand and on a curve tube 3 or flexible maleable slender stylet 9 of the intubating instrument as taught by George, the camera's eye is difficult to aim and to control because to perform its task the intubating tube is necessarily moving. A patient's tongue or other obstructions can easily move the intubating tube. The intubating tube can have a target variation of perhaps up to 160° to 170° which is unacceptable for service as a camera mount. Accordingly Applicant's teaching of a stable camera mount location on the blade of the laryngoscope in the vicinity of its distal end gives rise to advantages set forth in the Application and is neither anticipated nor rendered obvious by George or any fair combination of George with other prior art references.

As to Claim 5, Applicant teaches a laryngoscope which is a functional unit and Claim 5 differs substantially from prior claims. Claim 5, like Claims 2-4, contain the distinguishing limitation of Claim 1 and should be patentable along with Claim 1. In like manner Claims 6-7 contain allowable limitations of Claim 1 and define the invention more precisely over Claim 5, so they also should be allowable along with Claims 1-5.

Claim 8 is an important teaching. Positioning the camera spaced from the distal end of the blade avoids a problem of the camera getting caught in soft tissue of the patient's mouth or throat and losing its picture. So Claims 8-10 distinguish clearly from Claim 1 and contain allowable subject matter of Claim 1 whereby Claims 8-10 should be allowed along with Claim 1.

Claims 11-12 specify a computer chip camera which is now available commercially and adds to Applicant's teaching.

Claim 13 now calls for the laryngoscope to be made of light-weight strong plastic and to be organized to be portable. Claims 13-14 contain the allowable subject matter of Claim 1 and should be allowable along with Claim 1.

Claim 15 sets forth the following language:

. . .camera means mounted on the blade in the vicinity of the distal end of the blade for observing a visual field that includes the patient's trachea opening and other oral internal structures; . . .

The foregoing language specifies mounting the camera on the stable blade of the laryngoscope where it can see the desired field without disturbance during the operating procedure. This location of the camera was not taught by George.

Claim 16 sets forth language as follows:

. . . providing camera means mounted on the blade in the vicinity of the distal end of the blade so tha it observes a field

of view that includes the patient's trachea opening and other oral internal structures; . . .

The method taught in Claim 16 could not be performed using a camera mounted, as taught by George, on the intubating instrument.

Ough showed a laryngoscope with a blade having a telescope provided therein. A Professional Intubator could not peek through the telescope and simultaneously observe the operating field in like manner to the present Application.

Upsher presented a laryngoscope with light means for illuminating the forward end of the blade.

None of the references, nor any fair combination of them, teach mounting of a camera on the stable laryngoscope, rather than on the dancing intubating instrument.

Kalman v. Kimberly Clark Corp. held that anticipation requires distinction to be made between the invention described or taught and the invention claimed. The law of anticipation does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art", it is only necessary that the claim under attack, as construed by the court, "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Plainly, George does not teach mounting of the camera on the laryngoscope blade, so

George fails as anticipation of the claims of the present Application. See Kalman v. Kimberly Clark Corp., 218 USPQ 781 at 789.

RCA Corp. v. Applied Digital Data System, Inc. followed Kalman v. Kimberly Clark Corp. stating that anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. 321 USPQ 385 at 338. RCA adds nothing to Kalman in bootstrapping alleged anticipation of Applicant's claims by George.

Standard Havens Products Inc. v. Gencor Industries Inc. held that an anticipatory reference need not duplicate, word for word, what is in a claim; anticipation can occur where a claimed limitation is inherent or otherwise implicit in a relevant reference. 21 USPQ 2d 1321.

In the present situation George absolutely does not mount his camera on the laryngoscope blade, so George fails completely to anticipate Applicant's claims.

In view of the foregoing amendments and explanations, it is believed that Claims 1-16 contain allowable subject matter. An early Notice of Allowance will be appreciated.

Courtesy and cooperation of Examiner TRUONG are appreciated.

Respectfully,

By: *Charles E. Baxley*
CHARLES E. BAXLEY
Attorney of Record
USPTO Reg. 20,149

59 John Street - 5th Floor
New York, New York 10038
Tel: (212) 791-7200
Fax: (212) 791-7276

Dated: New York, NY
January 6, 1998